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5 **UNITED STATES DISTRICT COURT**
6 **DISTRICT OF NEVADA**

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8 PHILLIP J. LYONS,

Case No. 2:14-cv-1813-APG-VCF

9 Plaintiff,

ORDER

10 v.

11 A. DICUS et al.,

12 Defendants.

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14 **I. DISCUSSION**

15 On March 16, 2015, this Court entered a screening order dismissing the
16 complaint in its entirety, with prejudice, as amendment would be futile. (Dkt. #3 at 8).
17 The Clerk of the Court entered judgment that same day. (Dkt. #5). In the complaint,
18 Plaintiff had alleged claims for unsafe prison conditions, retaliation, and denial of access
19 to the courts because Defendant Correctional Officer Dicus had referred to grievances
20 as “snitch kites.” (See dkt. #3 at 4-5). Based on that remark, Plaintiff refused to take a
21 grievance because being viewed as a snitch in prison posed a substantial risk to
22 Plaintiff’s health and safety. (*Id.* at 4). The Court found that Plaintiff had failed to state
23 any claims because Plaintiff had failed to: (a) make any allegations that the term “snitch
24 kite” had placed a serious threat to Plaintiff’s life; (b) establish that the use of the term
25 “snitch kite” was an adverse action under these circumstances; and (3) establish that
26 the term “snitch kite” prevented Plaintiff from accepting a grievance. (*Id.* at 5-7).

27 On March 26, 2015, Plaintiff filed a motion for reconsideration. (Dkt. #6). In the
28 motion, Plaintiff argues that the Court committed clear error in dismissing his complaint

1 because the Court “completely overlooked Defendant Dicus’s actual motive for labeling
2 prison grievance forms ‘snitch kites.’” (*Id.* at 3, 5). Plaintiff argues that his complaint
3 alleged that Dicus knew that a prisoner being perceived as a “snitch” posed a
4 substantial risk to a prisoner’s health and safety. (*Id.* at 5-6).

5 A motion to reconsider must set forth “some valid reason why the court should
6 reconsider its prior decision” and set “forth facts or law of a strongly convincing nature to
7 persuade the court to reverse its prior decision.” *Frasure v. United States*, 256
8 F.Supp.2d 1180, 1183 (D. Nev. 2003). Reconsideration is appropriate if this Court “(1)
9 is presented with newly discovered evidence, (2) committed clear error or the initial
10 decision was manifestly unjust, or (3) if there is an intervening change in controlling
11 law.” *Sch. Dist. No. 1J v. Acands, Inc.*, 5 F.3d 1255, 1263 (9th Cir. 1993). “A motion for
12 reconsideration is not an avenue to re-litigate the same issues and arguments upon
13 which the court already has ruled.” *Brown v. Kinross Gold, U.S.A.*, 378 F.Supp.2d
14 1280, 1288 (D. Nev. 2005).

15 The arguments in the motion for reconsideration are the same arguments that
16 Plaintiff made in his complaint and that the Court considered in its initial screening
17 order. As such, the Court denies Plaintiff’s motion for reconsideration.

18 **II. CONCLUSION**

19 For the foregoing reasons, **IT IS ORDERED** that the motion for reconsideration
20 (Dkt. #6) is denied.

21 Dated: April 13, 2105.



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23 UNITED STATES DISTRICT JUDGE
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